

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
EVANSVILLE DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 3:07-cr-00002-RLY-MPB
	)	
MATTHEW HEPLER,	)	-01
	)	
Defendant.	)	

**REPORT AND RECOMMENDATION**

On December 4, 2017, the Court held an Initial Appearance on a Warrant for a Supervised Release Violation. On December 18, 2017 the Court held the Final Hearing on Revocation of Supervised Release. Defendant Hepler appeared in person with his appointed counsel David Lamont. The government appeared by Lauren Wheatley, Assistant United States Attorney. The United States Probation and Parole Office appeared by Officer Andrea Hillgoth.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Hepler of his rights and provided him with a copy of the petition. Defendant Hepler waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Hepler admitted violations 1 and 2 ([Docket No. 8](#)). In support of sentencing arguments, Defendant called Melissa Milsap as a witness, and the Government called Probation Officer Andrea Hilgoth. Defendant also submitted correspondence from his employer, Cabinets & Counters, Inc. (Ex. 1) and Treatment Counselor Sarah Hopf of the Volunteers of America (Ex. 2 and 3).
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

	Violation Number	Nature of Noncompliance
	1	<p>"The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance."</p> <p>On November 8, 2017, Matthew Hepler tested positive for methamphetamine. As previously reported to the Court, Mr. Hepler admitted to using marijuana and methamphetamine on occasion from May until July 2017. This was evident in his positive drug screens from the following dates: June 13, July 7, July 18, July 21, and July 27, 2017. On October 20, 2017, Mr. Hepler tested positive for methamphetamine and admitted to using approximately three times per week from the beginning of October until his last use on October 23, 2017. Most recently, Mr. Hepler tested positive for methamphetamine on November 8, 2017.</p>
	2	<p>"The defendant shall participate in a program of testing and treatment for alcohol and drug abuse to include no more than eight drug tests per month, and shall pay a portion of the fees of testing."</p> <p>As previously reported to the Court, Matthew Hepler failed to report for urinalysis on July 14, 19, and 24, August 28, October 7, 13, 16, 18, 23, 25, 27, and 31, 2017.</p>

4. The parties stipulated that:

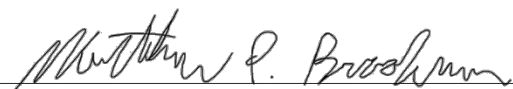
- (a) The highest grade of violation is a Grade B violation.
- (b) Defendant's criminal history category is II.
- (c) The advisory range of imprisonment applicable upon revocation of supervised release, therefore, is 6-12 months' imprisonment.

5. Title 18, United States Code, Section 3583(g)(4) requires mandatory revocation when a defendant tests positive for illegal controlled substances more than three times over the course of one year.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be revoked, and that he should be sentenced to custody for a period of 90 days. Defendant to recommence supervised release upon release from imprisonment for the balance of the originally imposed term, with the same conditions as previously imposed, including specifically the condition that Defendant participate in a substance abuse treatment program approved by the probation officer and abide by the rules and regulations of that program. The probation officer shall supervise participation in the program (provider, location, modality, duration, intensity, etc.).

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties have fourteen days after being served a copy of this Report and Recommendation to serve and file written objections with the District Judge.

Dated: December 27, 2017



Matthew P. Brookman  
United States Magistrate Judge  
Southern District of Indiana

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